

1 IMPERIUM PATENT WORKS  
2 DARIEN K. WALLACE (State Bar No. 139798)  
3 T. LESTER WALLACE (State Bar No. 159967)  
P.O. Box 587  
4 Sunol, California 94586  
e-mail: Darien@ImperiumPW.com  
Telephone: 925-862-9972  
5 Facsimile: 925-835-5804

6 Attorneys for Plaintiff and Counterdefendant  
7 ZINUS, INC.

8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

10 ZINUS, INC., a California corporation,

11 Plaintiff,  
12 v.

13 SIMMONS BEDDING COMPANY, a  
14 Delaware corporation, and DREAMWELL,  
15 LTD., a limited liability company of  
Nevada,

16 Defendants.

17 AND RELATED COUNTERCLAIMS

Case No. 07-CV-03012 PVT

**[PROPOSED]  
ORDER DENYING DEFENDANT  
SIMMONS' MOTION TO DISMISS**

Date: October 9, 2007  
Time: 10:00 a.m.  
Location: Courtroom 5  
Judge: Hon. Patricia V. Trumbull

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20 On October 9, 2007, defendant Simmons Bedding Company's ("Simmons") Motion to  
21 Dismiss was heard in this Court before the Honorable Magistrate Judge Patricia V. Trumbull.  
22 The Court, having read and considered all moving, opposition and reply papers and supporting  
23 documents filed herein, and having heard the arguments of counsel, hereby orders that  
24 defendant Simmons' Motion To Dismiss is DENIED.

25 IT IS SO ORDERED.  
26

27 Dated: \_\_\_\_\_

28 \_\_\_\_\_  
The Honorable Patricia V. Trumbull  
United States Magistrate Judge